

May 12, 2000

Re: 00-0161

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Dear Sir/Madam:

Enclosed is a copy of the Memorandum from the Hearing Examiner to the Commission regarding recommended action at the Bench Session on May 10, 2000. The Order presented to the Commission was entered with no changes and therefore, is not enclosed.

Sincerely,

Donna M. Caton
Chief Clerk

DMC:jbm
Enclosure

DELIVERED BY INTER OFFICE MAIL TO:

Judy Marshall, Case Manger, Telecommunications, Illinois Commerce Commission,
527 E. Capitol Ave., Springfield, IL 62701

Docket No.: 00-0161
Bench Date: 05-10-00
Deadline: 01-14-01

MEMORANDUM

TO: The Commission

FROM: Donald L. Woods, Hearing Examiner

DATE: April 25, 2000

SUBJECT: MJD Communications, Inc., Odin Telephone Exchange, Inc.,
C-R Telephone Company, The El Paso Telephone
Company and Yates City Telephone Company

Joint Application for approval of the right to convert Series D Preferred Stock and Class B Common Stock of MJD Communications, Inc. to Class A Common Stock of MJD Communications, Inc. and for other relief.

RECOMMENDATION: Enter the attached Order granting the requested relief.

Joint Applicants filed a verified Joint Application for approval of the right to convert Series D Preferred Stock and Class B Common Stock of MJD to Class A Common Stock of MJD and for approval of the acquisition of Class A Common Stock by THL Fund IV as a transfer of control in accordance with Section 7-203 of the Public Utilities Act ("Act") and a reorganization in accordance with Section 7-204 of the Act and for all other appropriate relief.

MJD is a privately owned telecommunications holding company, who ultimately controls operating subsidiaries providing local exchange telecommunications services as incumbent local exchange carriers to approximately 150,000 access lines in 12 states. MJD is the ultimate parent of Odin, C-R, El Paso and Yates City, each of which is an incumbent local exchange carrier providing service in Illinois subject to this Commission's jurisdiction and regulation. This Commission has previously approved MJD's acquisition and the reorganization of Odin in Docket No. 96-0199, C-R in Docket No. 97-0328, El Paso in Docket No. 98-0754 and Yates City in Docket No. 99-0027. As of December 31, 1999, Odin served 1,147 access lines, C-R served 936 access lines, El Paso served 2,022 access lines and Yates City served 567 access lines.

The Commission has also previously approved a prior recapitalization transaction in Docket No. 97-0108; and as a result of that recapitalization transaction, substantial investments were made in MJD by Kelso Investments Associates V, L.P. and Kelso Equity Partners V, L.P., which are affiliates of Kelso & Company, a private

investment firm, and by Carousel Capital Partners L.P., a partnership set up by Carousel Capital, a private merchant bank. The Kelso entities and Carousel each owned 697,788 shares of voting Class A Common Stock or an ownership interest of 38.5% for each prior to the present recapitalization. The remaining voting shares of MJD were owned by a group of founders of MJD and key management and other employees of the company.

On January 20, 2000, Carousel Capital Partners V, L.P. exchanged all of its voting Class A Common Stock of MJD for non-voting Series D Preferred Stock, which was then purchased by Thomas H. Lee Equity Fund IV, L.P. and certain related parties ("THL Fund IV"). Several individual management stockholders also exchanged a portion of their Class A Common Stock of MJD for non-voting Series D Preferred Stock, which was also purchased by THL Fund IV. THL Fund IV, which made a total investment of approximately \$282 million on January 20, 2000, purchased additional shares of Series D Preferred Stock from MJD in connection with the remainder of its investment. As a result of those transactions, THL Fund IV now owns 1,073,086 shares of non-voting Series D Preferred Stock.

Also on January 20, 2000, the Kelso entities exchanged 415,000 shares of their previously owned voting Class A Common Stock for 415,000 shares of non-voting Class B Common Stock of MJD. The Kelso entities also made an additional equity investment of approximately \$70 million and received 212,186.4 additional shares of non-voting Class B Common Stock. Unrelated institutional investors invested an additional \$56 million in MJD on January 20, 2000 and received 213,472 shares of non-voting Class C Common Stock. As was the case prior to the recapitalization activity that occurred on January 20, 2000, no single shareholder controls a majority of the voting capital stock of MJD. The Kelso entities now own 282,788.4 shares of voting Class A Common Stock or approximately 49.5%. Individual shareholders own the remaining shares of voting Class A Common Stock, with the largest individual investor owning 107,757 shares or approximately 18.9% of the voting Class A Common Stock.

Pursuant to the terms of the Stock Purchase Agreement, the Series D Preferred Stock now owned by THL Fund IV will automatically convert on a 1-for-1 basis to voting Class A Common Stock of MJD upon receipt of all necessary regulatory approvals. On a similar basis, all of the non-voting Class B Common Stock now owned by the Kelso entities will convert on a 1-for-1 basis to Class A Common Stock upon receipt of all required regulatory approvals.

Upon receipt of all necessary regulatory approvals and upon conversion, there will be 2,271,389.8 issued and outstanding shares of Class A Common Stock of MJD. 1,073,086 shares would be owned by THL Fund IV or approximately 40.1%. The remaining individual shareholders would collectively own 288,329 shares or approximately 12.7%.

The THL Fund IV has made a commitment to invest an additional \$50 million in MJD upon receipt of all necessary regulatory approvals. In connection with the fulfillment of that additional investment commitment, THL Fund IV would acquire an

additional 190,600 shares of Class A Common Stock. This would increase THL Fund IV's ownership of Class A Common Stock to 1,263,686 shares or approximately 51.3% of the ownership of Class A Common Stock of MJD. THL Fund IV is a limited partnership managing approximately \$3.45 billion and is one of four funds managed by Thomas H. Lee Company, a Boston-based investment company focused on acquiring substantial investments in growth companies. Thomas H. Lee Company and its affiliates currently manage approximately \$6 billion in committed capital. Additional information related to Thomas H. Lee Company was submitted into evidence. The recapitalization transaction will not affect the management and day-to-day operations of MJD. The evidence shows that the additional capital received by MJD as a result of the transaction has made and will make MJD and its affiliates, including Odin, C-R, El Paso and Yates City, even stronger and more financially viable companies with an enhanced ability to make continued investments in telecommunications technology.

Staff witnesses appeared at the hearing and recommended that the transaction be approved with four conditions. The Company accepted all conditions as follows:

- a) Staff should be granted access to all books, accounts, records and personnel of MJD, Odin, C-R, El Paso, Yates City and all of their utility and non-utility affiliated parent, sister and subsidiary companies, as well as independent auditors' work papers;
- b) Odin, C-R, El Paso and Yates City should continue to comply with 83 Illinois Administrative Code Part 712;
- c) Odin, C-R, El Paso and Yates City should not increase retail rates as a result of the reorganization;
- d) in the event that any savings result from the reorganization, such savings should be shared with ratepayers of Odin, C-R, El Paso and Yates City.

In addition, the Joint Applicants indicated they would not object to a fifth condition being imposed in connection with the approval of the Joint Application, with that condition being:

- (5) Joint Applicants will agree not to allocate or charge any of the Illinois incumbent local exchange carriers with any costs or charges assessed to MJD by THL Fund IV.

All five conditions are included in the order attached hereto. I recommend that the order be entered.